

**MARKS, O'NEILL, O'BRIEN,  
DOHERTY & KELLY, P.C.**  
**BY: Melissa J. Brown, Esquire**  
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**ATTORNEY FOR DEFENDANT**  
**Lincoln Educational Services**  
**Corporation**

1898-109344 (MJB/AAK)

John Gaviria, Individually and on behalf of a  
Class of others similarly situated,

vs.

Lincoln Education Services Corporation

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DOCKET NO. 2:20-cv-18552

CIVIL ACTION

**NOTICE OF MOTION TO DISMISS  
PLAINTIFF'S AMENDED  
COMPLAINT FOR FAILURE TO  
STATE A CLAIM**

PLEASE TAKE NOTICE that on April 19, 2021, 2021 at 9:00 o'clock in the forenoon or as soon thereafter as counsel may be heard, the undersigned, Melissa J. Brown, Esquire, attorney for Defendant, Lincoln Educational Services Corporation, shall apply to the United State District Court of New Jersey for an Order dismissing Plaintiff's Amended Complaint for failure to state a claim, pursuant to Fed.R.Civ.P. 12(b)(6).

PLEASE TAKE FURTHER NOTICE that the undersigned shall rely upon the Certification attached hereto and made a part thereof.

A proposed form of Order is submitted herewith.

Oral Argument is hereby requested.

**MARKS, O'NEILL, O'BRIEN,  
DOHERTY & KELLY, P.C.**

/s/ *Melissa J. Brown*

Melissa J. Brown, Esquire  
Attorney for Defendant,  
Lincoln Educational Services Corporation

Date: March 24, 2021